



[Press Release]

Patent Office issues Practice Notice on Patentability of Computer Programs and Business Methods

Following the Court of Appeal's judgment in *Aerotel v Telco* and *Macrossan's Application*, issued last Friday, The UK Patent Office has issued a Practice Notice on how it will in future decide if an invention is not patentable because it is a computer program or business method as such.

The Notice notes that the judgment considers all the previous caselaw from the UK courts and the European Patent Office and provides a clear approach as to how the computer program and business method questions should be tackled. The judgment is binding on the High Court and the Patent Office, and from now on the Patent Office will follow this as set out in the Practice Notice.

The approach is in the form proposed to the Court by the UK Patent Office and the Notice concludes that it is unlikely that it will substantially change what innovations are and are not patentable. The Notice refers to a number of worked examples applying the new approach to cases recently decided by the Office under the previous approach and in each case the same decision as to patentability is reached.

Editors' notes:

1. UK law does not allow patents to be granted for some types of innovation. Some computer-implemented inventions are patentable whilst others are not. This is because software straddles the technological and business worlds. It uses technology, i.e. computers, but often for non-technical purposes. Whether a computer-implemented invention is patentable depends on the contribution the invention makes. For example, if it provides improved control of a car braking system, it is likely to be patentable, but if it merely provides an improved accounting system, it is probably not patentable.
2. The law on what is patentable is broadly the same across the whole of the European Community, so if something is unpatentable under United Kingdom law, it will also usually be unpatentable elsewhere in Europe. However there has been considerable debate about how the test is applied in different countries and by the European Patent Office, which grants patents covering all European countries. In some other countries, notably the United States and Japan, the laws allow a wider range of computer-implemented inventions to be patented.
3. The Practice Notice is available as is the text of the Court of Appeal judgment.